

§ 17.271

38 CFR Ch. I (7–1–00 Edition)

38 U.S.C. 1713, VA is authorized to provide medical care in the same or similar manner and subject to the same or similar limitations as medical care furnished to certain dependents and survivors of active duty and retired members of the Armed Forces. The CHAMPVA program is designed to accomplish this purpose. Under CHAMPVA, VA shares the cost of medically necessary services and supplies for eligible beneficiaries as set forth in §§ 17.271 through 17.278.

(b) For purposes of this section, the definitions of “child,” “service-connected condition/disability,” “spouse,” and “surviving spouse” must be those set forth further in 38 U.S.C. 101. The term “fiscal” year refers to October 1, through September 30.

(Authority: 38 U.S.C. 1713)

§ 17.271 Eligibility.

(a) The following persons are eligible for CHAMPVA benefits provided that they are not eligible for CHAMPUS/TRICARE or Medicare Part A (except as noted in § 17.271).

(1) The spouse or child of a veteran who has been adjudicated by VA as having a permanent and total service-connected disability;

(2) The surviving spouse or child of a veteran who died as a result of an adjudicated service-connected condition(s); or who at the time of death was adjudicated permanently and totally disabled from a service-connected condition(s);

(3) The surviving spouse or child of a person who died on active military service and in the line of duty and not due to such person's own misconduct; and

(4) An eligible child who is pursuing a full-time course of instruction approved under 38 U.S.C. Chapter 36, and who incurs a disabling illness or injury while pursuing such course (between terms, semesters or quarters; or during a vacation or holiday period) that is not the result of his or her own willful misconduct and that results in the inability to continue or resume the chosen program of education must remain eligible for medical care until:

(i) The end of the six-month period beginning on the date the disability is removed; or

(ii) The end of the two-year period beginning on the date of the onset of the disability; or

(iii) The twenty-third birthday of the child, whichever occurs first.

(Authority: 38 U.S.C. 1713)

(b) Persons who lose eligibility for CHAMPVA by becoming potentially eligible for Medicare Part A as a result of reaching age 65 or who qualify for Medicare Part A benefits on the basis of a disability, including end stage renal disease, may re-establish CHAMPVA eligibility by submitting documentation from the Social Security Administration (SSA) certifying their non-entitlement to or exhaustion of Medicare Part A benefits. Persons under age 65 who are enrolled in both Medicare Part A and B may become potentially eligible for CHAMPVA as a secondary payer to Medicare. In cases where CHAMPVA eligibility is restored upon exhaustion of Medicare benefits, CHAMPVA coverage will extend even during subsequent periods of Medicare eligibility. When both CHAMPVA and Medicare eligibility exist, CHAMPVA must be the secondary payer.

(Authority: 38 U.S.C. 1713(d))

NOTE TO § 17.271: Eligibility criteria specific to Dependency and Indemnity Compensation (DIC) benefits are not applicable to CHAMPVA eligibility determinations.

§ 17.272 Benefits limitations/exclusions.

(a) Benefits cover allowable expenses for medical services and supplies that are medically necessary and appropriate for the treatment of a condition and that are not specifically excluded from program coverage. Covered benefits may have limitations. The fact that a physician may prescribe, order, recommend, or approve a service or supply does not, of itself, make it medically necessary or make the charge an allowable expense, even though it is not listed specifically as an exclusion. The following are specifically excluded from program coverage:

(1) Services, procedures or supplies for which the beneficiary has no legal obligation to pay, or for which no charge would be made in the absence of coverage under a health benefits plan.